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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,021	06/08/2000	TOSHIYA TAKEKUMA	1776/00050	9733

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EXAMINER
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GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/581,021

Applicant(s)

TAKEKUMA ET AL.

Examiner

Elaine Gort

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-- Th MAILING DATE of this communication appears on the cover sheet with th correspond nce address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 47-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 47-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

### **DETAILED ACTION**

1. The Supplemental Amendment filed 7/2/03 has not been entered as it is an informal amendment. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Claims cannot be resubmitted when canceled.

The Amendment In Response to Non-Final Office Action filed 7/2/03 did not include a copy of the amended claims showing a marked up version with the amendments made. A copy is required for the file.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in June 29, 2000. A translation of the priority document is required.

### ***Claim Rejections - 35 USC § 112***

3. Claims 1 and 47-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Although somewhat improved with the amendment, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

The claims are replete with grammatical unclarity along with functional and indefinite language, failing to positively and distinctly set forth structure and its interconnection(s). *All of the claims should be reviewed for compliance and new claims submitted as necessary.*

Examples of terminology that should be reviewed for clarification follow:

In claim 1, lines 1 and 2 it is unclear by the terms "A goods dealing apparatus ... making a bargain for goods". Perhaps what is meant is a goods dealing apparatus for negotiating deals.

In claim 1, lines 3 and 4, it is unclear by the terms "goods which lose their values". It is unclear what values are being lost. Perhaps what is meant is that the goods lose their market value over time.

In claim 1, line 4 it is unclear what is being output from the terminal devices. Does this mean that the bargain, the goods, or the information entered by the sellers and buyers is being output?

In claim 1, line 6 it is unclear what is meant by "executing a cross dealing by pre-engagement". What limitations are being added by the words cross and pre-engagement?

In claim 1, line 10 it is unclear what is meant by "executing processing of a dealing". Does this mean processing of the buyers offer date and sellers bids?

In claim 1, line 11 it is unclear what is being specifically claimed in regard to "a conclusion is sequentially made with every agreement between said buying information and said selling information after collating . . .". Is the conclusion the contract?

*All of the claims should be reviewed for compliance and new claims submitted as necessary.*

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1 and 47-70 are rejected because they lack patentable utility. Claims 1 and 47-70 only claim the manipulation of data but perform no concrete, useful or tangible result. The claims merely claim manipulation of date but do not perform any concrete, useful or tangible result. For example this objection may be overcome by claiming the output of a report, contractual agreement, or transfer of goods.

6. Claims 1 and 47-50 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Current office policy regarding method claims disclosed as requiring a computer but not claiming the use of a computer is to consider the claimed subject matter as non-statutory for failing to fall within the

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technological arts. Claims must be tied to a technological art. Tying the method to a computer would be one way to overcome this rejection.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 and 47-70, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US Patent 5,794,207).

Walker et al. '207 discloses the claimed goods dealing apparatus, system, method, and storage medium.

Walker et al. '207 discloses a goods dealing apparatus, system, method, and storage medium with deal processing for executing a deal based on multiple buyer and multiple seller's information which includes date information relative to for example a flight date; deal processing which includes a contractual obligation ("conclusion"?) being formed when the buyer and seller information makes a match ("collating"?); and where the prices may decline when the seller finds they have many too many empty seats and the flight is nearing its departure at which time the seller's ticket price may drop as the

ticket will have little value to them after the airplane's departure. All other claimed limitations are either disclosed or inherent.

9. Claims 1 and 47-70, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (US Patent 6,112,185).

Walker et al. '185 discloses a goods dealing apparatus, system, method, and storage medium with deal processing for executing a deal based on multiple buyer and multiple seller's information which includes date information relative to for example a flight date; deal processing which includes a contractual obligation ("conclusion"?) being formed when the buyer and seller information makes a match ("collating"?); and where the prices may decline when the seller finds their forecasting errors have left availability for which they chose to offer discounts as the flight is nearing its departure at which time the seller's prices may drop as the ticket/upgrade will have little value to them after the airplane's departure. All other claimed limitations are either disclosed or inherent.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1 and 47-70, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ordish (European Patent Application Publication 0434224A2) in view of Walker et al (US Patent 6,112,185).

Ordish discloses the claimed system, method and storage medium for goods dealing including processing means for processing buyer's and seller's information (special criteria entered by buyer and seller which includes conditions for purchase and sale, e.g. see column 6, line 42, book of bids and offers); processing means for collating buying and selling information based on predetermined conditions and creating a sequential conclusion made with agreements (automatic matching transactions and conversation negotiate trading transactions) (creates, tracks and processes tickets, e.g. see figure 16 and 17); input terminal, browser, display (located at keystations); and host (networked, e.g. 2000).

Ordish discloses the claimed system, method and storage medium for "goods dealing" but is silent regarding the goods losing or reducing their values after passage of a period of time and where either the buyer's or seller's information includes a date. Walker et al. '185 discloses that it is old and well known in the art of trading to trade airline tickets which lose or reduce their values after passage of time and the trading of the tickets including date information (see column 2, lines 15+) to allow buyers and sellers to buy or sell when the value is declining and when the date is important. It is well known in the art of trade that goods may depreciate, perish and/or lose value based on many market conditions (e.g. passage of time in relation to the event of the airline flight). It would have been obvious to one having ordinary skill in the art at the time the



invention was made that the dealing of Ordish could be carried out on trading goods that are losing value with time and when the date associated with the goods is important, in order to allow buyers and sellers to transfer goods that are losing value with time and when the date associated with the good is important.

Regarding a second dealing condition that is easier than a prior dealing condition. It is notoriously old and well known in the art of negotiation that a buyer or seller raises or lowers, respectively, their price to adjust the price to make a purchase or sale, respectively. Therefore the raising of the buyer's offer or lowering of the seller's price demanded would have been obvious at the time of the invention in order for the buyer and seller to come to an agreement to transact the good.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1 and 47-70 have been considered but are moot in view of the new ground(s) of rejection.

See details above.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

EG

August 22, 2003

 8/25/03

ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
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